IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 23775 of 2004

Between:

Ch.Agaiah S/o.Odelu, Driver,
APSRTC,Huzurabad Bus Depot, Karimnagar District

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Huzurabad Bus Depot, Hyderabad.
2 The Divisional Manager APSRTC, Karimnagar Region, Karimnagar.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring that the action of the respondents in imposing the punishment of deferment of annual increment when next falls for a period of two years with cumulative effect on future increments as bad, arbitrary, illegal, unjust and unreasonable and violative of principles of natural justice and contrary to the judgments of this Hon'ble court
and also apex court by setting aside the final order No.01/2(2)/97-HZB
dt 14-10-1997 of R1 herein and consequently direct the respondent No.1 to add the deferred increment and pay the arrears.

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondents: SMT.P.RAJANI REDDY, S.C. for A.P.S.R.T.C.

The Court made the following:

ORAL ORDER:

The case of the petitioner is that he was appointed as Driver in the 2nd respondent-Corporation in the month of August, 1992. On 27.2.1997, while the petitioner was performing his duty on Bus bearing No.AP9Z 3850, one Moped rider dashed against his vehicle near Palamakula. Subsequently, the respondent-Corporation issued a charge sheet dated 24.7.1997 to the petitioner, for which he gave explanation on 8.8.1997. On the basis of the explanation submitted by the petitioner, the first respondent passed a final order on 14.10.1997 imposing penalty of deferment of annual increments for a period of two years, which shall have effect on his future increments. Aggrieved by the same, the petitioner carried the matter in appeal, which was rejected by an order, dated 17.10.2000. Hence, this writ petition has been filed.

The learned counsel for the petitioner has contended that major penalty cannot be imposed without conducting any enquiry and therefore, he prays to modify the penalty imposed on the petitioner since the incident took place in the year 1997.

The learned standing counsel for the respondents has opposed the same and submitted that there are no grounds to interfere with the findings given by the lower authorities.

The incident took place on 27.2.1997, wherein one rider of the Moped vehicle dashed against the Bus bearing No.AP9Z 3850 driven by the petitioner near Palamakula. Therefore, the first respondent called for explanation of the petitioner and having not been satisfied with the explanation offered by the petitioner, he imposed a major penalty of deferment of two increments with cumulative effect by proceedings dated 4.10.1997. There cannot be any dispute that imposing penalty of stoppage of two increments with

cumulative effect is a major penalty, which cannot be imposed without conducting regular departmental enquiry. Admittedly, in this case, no such departmental enquiry was conducted. Though the matter can be remitted to the first respondent, but under the peculiar facts and circumstances of the case, as the incident had taken place about seven years back, it is not desirable to remit the matter again, and perhaps that is the reason why the learned counsel for the petitioner has requested this Court to impose minor penalty instead of major penalty.

Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of two increments with cumulative effect, imposed by the first respondent can be reduced with slight modification. Therefore, the order of punishment, dated 14.10.1997 is modified as deferment of two increments without cumulative effect.

With the above modification, the writ petition is disposed of. In the circumstances of the case, there shall be no order as to costs.

_____

(K.C. BHANU, J.)

21st December, 2004.

bcj

To

1 The Depot Manager, APSRTC, Huzurabad Bus Depot, Huzurabad.
2 The Divisional Manager APSRTC, Karimnagar Region, Karimnagar.

3. Two C.D. copies